



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.04.2016

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.10 of 2016

Thirupathi .. Petitioner
Vs.

1.State of Tamil Nadu,
rep.by the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City, (Full Additional Charge)
Tirunelveli.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

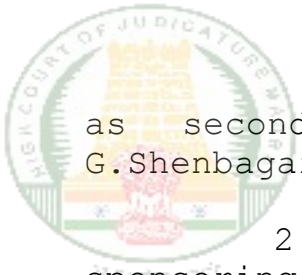
Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order passed in No.81/BCDFGISSSV/2015 dated 21.12.2015 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely G.Shenbagaraj S/o.Gurusamy Nadar aged about 27 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.K.Sudalayandi
For Respondents : Mr.C.Ramesh
Addl.Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J.)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the detention order passed in No.81/BCDFGISSSV/2015 dated 21.12.2015 by the detaining authority who has been arrayed



as second respondent herein against the detenu by name G.Shenbagaraj S/o.Gurusamy Nadar and quash the same.

2. The Inspector of Police, Pettai Police Station, as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases:

(i) Crime No.400 of 2015, Pettai Crime Police Station, registered under Section 379 of the Indian Penal Code;

(ii) Crime No.472 of 2015, Pettai Police Station, registered under Sections 294(b), 307, 506(ii) of the Indian Penal Code altered to Sections 294(b), 307, 506 (ii) and 120(b) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 06.12.2015 one Raja S/o.Subramanian as defacto complainant has given a complaint in Pettai Police Station against the detenu and the same has been registered in Crime No.640 of 2015 under Sections 294(b), 387, 307 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

5. On the side of the respondents a detailed counter has been filed, wherein it has been contended inter alia to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu four representations are submitted and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question does not call for any interference.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that with regard to



first representation in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available; with regard to second representation in between column Nos.12 and 13, 11 clear working days are available; with regard to third representation, in between column Nos.7 to 9, 3 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available and with regard to fourth representation, in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representations submitted on the side of the detenu and that itself would affect his rights guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 21.12.2015 passed in No.81/BCDFGISSSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name G.Shenbagaraj S/o.Gurusamy Nadar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City, (Full Additional Charge)
Tirunelveli.
- 3.The Joint Secretary to Government,
Public (Law & Order)
Fort Saint George, Chennai-9.



4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

(duplicate copy communication to the detenu)

5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

6.The Director General of Police, Chennai-4.

+1cc to M/s.K.Sudalaiyandi, Advocate Sr.No.24359

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H.C.P. (MD) No.10 of 2016
27.04.2016